

**FILED** E-Filing  
MAY X 3 2006

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TK POWER, INC.,

No. C-04-5098 EMC

Plaintiff,

v.

**ORDER RE RULINGS ON  
EVIDENTIARY OBJECTIONS**

TEXTRON, INC.,

(Docket Nos. 142, 143, 150, 157, 176)

Defendant.

The Court has reviewed the parties' objections to proposed exhibits, discovery excerpts and deposition excerpts. Its rulings thereon – overruled (“O” or “OR”), sustained (“S”), or “reserved” (for trial pending additional information such as foundational evidence, purpose, etc.) are indicated on Exhibits A, B, C, D, and E attached hereto.

This Order disposes of Docket Nos. 142, 143, 150, 157, and 176.

IT IS SO ORDERED.

Dated: May 3, 2006

  
EDWARD M. CHEN  
United States Magistrate Judge

# **EXHIBIT A**

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9 Attorneys For Defendant and Counterclaimant  
10 E-Z-GO, a division of TEXTRON INC.

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13

14 TK POWER, INC.

15 Plaintiff,

16 v.

17 TEXTRON, INC.

18 Defendant.

19  
20 TEXTRON INC., a Delaware Corporation,

21 Counterclaimant,

22 v.

23 TK POWER, INC., a Nevada Corporation,

24 Counterdefendant.  
25

Case No. C-04-5098 EMC

Judge: Hon. Edward M. Chen

**DEFENDANT'S RESPONSE TO  
PLAINTIFF'S DESIGNATION OF  
DISCOVERY RESPONSES;  
ORDER THEREON**

Date: April 26, 2006

Time: 3:00 p.m.

Courtroom: C, 15th Floor

Judge: Hon. Edward Chen

(Docket No. 142)

26 Defendant Textron, Inc. hereby objects to Plaintiff's use of discovery response.

27 **A. Plaintiff's Use of Interrogatory Responses (E-Z-Go's Second Supplemental**  
28 **Responses to Plaintiff's Special Interrogatories, Set One):**

DEFENDANT'S RESPONSES TO TK'S  
DESIGNATIONS OF DISCOVERY

1 Expect to Use:

2 3 No objection

3 10 No objection

4 14 No objection

5 22 No objection

6 24 Renew Objection in the Response

OR

7 May Use:

8 1 Renew Objection in the Response

OR

9 2 No objection

10 6 No objection

11 7 No objection

12 8 Renew Objection in the Response

OR

13 9 No objection

14 11 No objection

15 15 Renew Objection in the Response

OR

16 16 Renew Objection in the Response

OR

17 18 Renew Objection in the Response

OR

18 20 No objection

19 21 No objection

20 **B. Plaintiff's Use of Requests for Admission Responses:**21 Expect to Use:

22 3 No objection

23 8 Renew Objection in the Response

OR; narrative admitted

24 9 Renew Objection in the Response

OR; narrative admitted

25 20 No objection

26 24 No objection

27 27 Renew Objection in the Response

OR; narrative admitted

28 45 Renew Objection in the Response

Reserve ruling on incomplete  
2 exhibit

1	46	No objection
2	48	No objection
3	51	No objection
4	56	No objection
5	57	No objection
6	59	No objection
7	60	No objection
8	62	No objection
9	85	No objection
10	86	No objection
11	87	No objection
12	96	No objection
13	97	Renew Objection in the Response
14	100	Renew Objection in the Response
15	101	Renew Objection in the Response
16	109	No objection
17	111	No objection
18	113	No objection
19	118	No objection
20	124	No objection
21	128	No objection
22	130	No objection
23	131	No objection
24	134	No objection
25	136	No objection
26	137	No objection
27	146	No objection
28	147	No objection

*Reserve ruling; incomplete exh.  
 OK; narrative admitted  
 OK; narrative admitted*

1	148	No objection	
2	149	No objection	
3	150	No objection	
4	161	Renew Objection in the Response	OK; narrative admitted
5	165	No objection	- Incomplete exhibit
6	167	No objection	
7	172	Renew Objection in the Response	OK; narrative admitted
8	173	Renew Objection in the Response	OK, narrative admitted
9	175	No objection	
10	177	No objection	
11	181	No objection	
12	182	No objection	
13	186	No objection	
14	188	No objection	
15	192	No objection	
16	193	No objection	
17	194	No objection	
18	196	No objection	
19	197	No objection	
20	199	No objection	
21	200	No objection	
22	203	No objection	
23	204	No objection	
24	209	No objection	
25	210	No objection	
26	211	No objection	
27	219	No objection	
28	221	No objection	

1	222	No objection	
2	224	No objection	
3	228	No objection	
4	233	No objection	
5	234	No objection	
6	235	No objection	
7	236	No objection	
8	237	No objection	
9	249	No objection	
10	250	No objection	
11	251	No objection	
12	253	Renew Objection in the Response	OR
13	263	No objection	
14	272	No objection	
15	273	No objection	
16	274	No objection	
17	276	No objection	
18	277	No objection	
19	280	No objection	
20	282	Renew Objection in the Response	OR
21	285	Renew Objection in the Response	OR
22	286	No objection	
23	288	No objection	
24	300	No objection	
25	302	No objection	
26	305	No objection	
27	307	No objection	

28

1 May use:

2 52 No objection

3 53 No objection

4 55 No objection

5 58 No objection

6 59 No objection (also in the "Expect to Use" list)

7 60 No objection (also in the "Expect to Use" list)

8 78 No objection

9 79 No objection

10 88 Renew Objection in the Response

*OR; narrative admitted*

11 89 No objection

12 90 No objection

13 114 No objection

14 119 No objection

15 122 No objection

16 123 No objection

17 125 No objection

18 126 No objection

19 127 No objection

20 162 No objection

21 166 No objection

22 176 No objection

23 189 No objection

24 198 No objection

25 205 No objection

26 260 No objection

27 270 No objection

28 271 No objection



TUCKER ELLIS & WEST LLP

By: /S/  
Scott Kelly  
 Attorneys for Defendant E-Z-GO, a  
 division of TEXTRON INC.

# **EXHIBIT B**

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Attorneys For Defendant and Counterclaimant  
 E-Z-GO, a division of TEXTRON INC.

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

TK POWER, INC.

Plaintiff,

v.

TEXTRON, INC.

Defendant.

TEXTRON INC., a Delaware Corporation,

Counterclaimant,

v.

TK POWER, INC., a Nevada Corporation,

Counterdefendant.

Case No. C-04-5098 EMC

Judge: Hon. Edward M. Chen

**DEFENDANT'S RESPONSE TO  
 PLAINTIFF'S DESIGNATION OF  
 DEPOSITION TESTIMONY;  
 ORDER THEREON**

Date: April 26, 2006

Time: 3:00 p.m.

Courtroom: C, 15th Floor

Judge: Hon. Edward Chen

(Docket No. 143)

Defendant Textron, Inc. hereby objects to Plaintiff's designations of deposition  
 testimony.

DEFENDANT'S RESPONSES TO TK'S  
 DESIGNATIONS OF DEPOSITION TESTIMONY

- 1 (1) Bell, Alex No objection
- 2 (2) Bourke, Michael J. No objections
- 3 (3) Gordon, Stacey No objections
- 4 (4) Hearn, Carlton No objections
- 5 (5) PMK (Bruntz, Kent) 4:6-5:19: Objection to the lawyer colloquy -- Not
- 6 testimony of sworn witness - *sustained*;
- 7 *Appears withdrawn per TK Amended Designation*
- 8 9:22-10:3 No objection of Depo. Test.
- 9 12:3-12:17 No objection
- 10 12:18-14:13 No objection
- 11 Rest: No objection
- 12 (6) PMK (Rutt & Schlachter) No objection
- 13 (7) Rayner, Martin Only the following objections in plaintiff's designations
- 14 P. 31:25 to 32:4 Objection to form of question
- 15 (question appears to have been withdrawn) - *sustained*
- 16 P. 33:25 to 34:18 Objection to foundation; asks for a
- 17 legal conclusion; lawyer colloquy - *sustained*
- 18 (8) Rutt, Susan General objection to inclusion of lawyer colloquy being
- 19 read/presented to the jury - *sustained*
- 20 Otherwise, any objections in the cited testimony withdrawn
- 21 (9) Schlachter, Greg General objection to inclusion of lawyer colloquy being
- 22 read/presented to the jury - *sustained*
- 23 Otherwise, any objections in the cited testimony withdrawn
- 24 (10) Yang, Roger General objection to inclusion of lawyer colloquy being
- 25 read/presented to the jury - *sustained*
- 26 P. 71:9 to 71:18 Objection to the lawyer colloquy, no
- 27 question - *sustained*
- 28 P. 73:2 to 73:7 Objection to form; question appears
- to have been withdrawn - *sustained*

1 P. 80:24 to 80:25 Objection to an answer read without  
2 the question/questions preceding - *sustained*  
3 P. 95:7 to 95:12 Question withdrawn by counsel - *S*  
4 P. 98:23 to 99:1 Objection to the lawyer colloquy - *S*  
5 P. 130:25 to 131:8 Object to lawyer colloquy - *S*  
6 P. 132:15 to 132:24 Object to lawyer colloquy - *S*  
7 P. 137:1 to 137:12 Objection to the interruption of the  
8 answer by counsel, and move to strike the question and  
9 answer for that reason. Counsel was provided the  
10 opportunity to cure are the deposition, and refused to do so. - *S*  
11 P. 139:20 to 140:7 Objection to reading an answer  
12 without the preceding question, as well as objection to the  
13 lack of designation of the answer on p. 140:8. - *S*  
14 P. 140:17 to 140:19 Objection to failure to identify the  
15 entire question and answer - *S*; *question must be*  
16 *read for context.*  
17 P. 143:5 to 143:12 Question stricken. Should not be  
18 read to the jury - *S*  
19 P. 162:25 to 163:16 Objection to hearsay, lack of  
20 foundation - *OR*  
21 P. 164:17 to 165:1 Objection to hearsay, lack of  
22 foundation - *OR*

23  
24  
25  
26  
27  
28  
DATED: April 20, 2006

TUCKER ELLIS & WEST LLP

By:                     /S/                      
Scott Kelly  
Attorneys for Defendant E-Z-GO, a  
division of TEXTRON INC.

# **EXHIBIT C**

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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 TK POWER, INC., a Nevada corporation,  
13 Plaintiff,

14 vs.

15 TEXTRON, INC., a Delaware corporation,  
16 Defendant.

17  
18 TEXTRON INC., a Delaware Corporation,  
19 Counterclaimant,

20 vs.

21 TK POWER, INC., a Nevada Corporation,  
22 Counterdefendant.

Case No.: C-04 05098-EMC

**PLAINTIFF'S OBJECTIONS TO  
DEFENDANT'S PROPOSED  
DEPOSITION TESTIMONY**

(DOCKET NO. 150)

23  
24 Plaintiff TK Power, Inc. objects to the defendant Textron, Inc.'s. designation of deposition  
25 testimony as follows:  
26  
27  
28

## Deposition of Scott Cawein

1	10:23-12:1	Relevance. <i>Relevance</i>
2	17:2 – 18:13	Relevance. <i>Relevance</i>
3	19:4 – 21:9	Vague and ambiguous where stated. <i>OR</i>
4	58:18-59:1	Ambiguous and speculative where stated. <i>OR</i>
5	121:21-122:6	Speculative where stated in lines 122:7-9. Lacks foundation. <i>Relevance</i>
6	129:2-129:11	Ambiguous where stated. Speculative where stated. Lacks foundation. <i>Relevance</i>
7	132:1-132:16	Speculative where stated and to all other questions. Lacks foundation. <i>Relevance</i> Witness not qualified as an expert to testify regarding all issues. <i>OR</i>
8	133:2-133:7	Speculative and non-responsive, as pointed out by plaintiff's counsel in the objections in 133:9-10. <i>OR</i>
9	133:24-134:15	Lack of foundation. Speculative. Relevance. <i>Relevance</i>
10	136:13-136:23	Speculative. Inappropriate lay opinion. Lacks foundation. <i>Relevance</i>
11	137:18-137:21	Testimony not given in response to a question. Ambiguous. Testimony appears to be a joke. <i>OR</i>
12	218:9-219:25	Speculative where stated. Lack of foundation where stated. <i>Relevance</i>
13	236:25-237:19	Speculative. Argumentative. (objection made on line 237:20) Inappropriate lay opinion as to all testimony. <i>Relevance</i>
14	245:2-245:19	Document speaks for itself and it is the best evidence. Hearsay. Lay witness interpretation inappropriate. <i>S</i>
15	252:15-253:21	Argumentative where stated. Speculative where stated. Lack of foundation. <i>Relevance</i>



254:6-257:9	Document speaks for itself where stated and it is the best evidence. Hearsay. Lay witness interpretation inappropriate. No foundation. Speculative where stated. Assumes fact where stated. Ambiguous where stated. <i>OR</i>
284:8 – 284:23	Speculative where stated. Assumes facts where stated. Lack of foundation. <i>reserve</i>
285:5-286:13	Move to strike as nonresponsive, speculative, lack of foundation as to 286:6-13. <i>285:5 - 285:22 S</i> <i>285:23 - 286:5 OR</i> <i>286:6 - 286:13 reserve</i>
291:11-292:11	Speculative and lacks foundation where stated. Inappropriate expert opinion. <i>reserve</i>
<del>293:5-293:22</del>	<del>Speculative where stated. <i>OR</i></del>
295:15-297:1	Too general and witness testifying from document where stated. Speculative where stated. <i>OR</i>
300:18-301:12	Where stated, the attorney's testifying. Hearsay. Assumes facts not in evidence, particularly to the point that it references, quote, unquote, "defects." <i>S</i>
305:18-306:12	Where stated, Leading. Assumes facts not in evidence. No showing that the recollection needs to be refreshed. <i>S</i>

**Martin Rayner**

49:7-50:9	Ambiguous as to which "battery charger" and lack of foundation where stated. <i>reserve</i>
51:20-25	Speculative. Lack of foundation. <i>reserve</i>
52:4-13	Speculative. Lack of foundation. <i>reserve</i>

1	53:22-54:2	Speculative. Lack of foundation in that there is no showing witness	
2		knows requirements and specifications.	<i>renew</i>
3	56:18-56:2	Speculative. Attorney testifying.	<i>OR</i>
4	59:9-59:21	Speculative. Lacks foundation.	<i>renew</i>
5	61:17-61:21	Response is ambiguous and unclear as to witness' meaning.	<i>OR</i>
6	66:12-66:17	Speculative.	<i>renew</i>
7	66:23-67:3	Speculative.	<i>renew</i>
8	68:6-68:23	Speculative.	<i>renew</i>
9	72:7-74:21	Hearsay.	<i>renew</i>
10	75:7-75:22	Hearsay. Ambiguous and speculative where stated.	<i>renew</i>
11	77:16-77:23	Speculative. Question withdrawn.	<i>S</i>
12	78:10-79:7	Speculative where stated. Documents speak for itself and witness	
13		interpretation is not best evidence where stated. Attorney is	
14		testifying	<i>S</i>
15	84:5-85:5	Hearsay.	<i>S</i>
16	85:6-85:17	Attorney is testifying and witness only answered the question that	
17		his recollection was refreshed, not that it happened. Leading.	<i>S</i>
18	86:6-86:11	Leading and ambiguous.	<i>S</i>
19	88:2-88:5	Attorney testifying. No answer.	<i>S</i>
20	97:17-97:23	Leading. Speculative. Lack of foundation. Calls for expert	
21		opinion.	<i>S</i>
22	98:4-99:3	Leading where stated. Speculative where stated.	<i>OR</i>
23	104:23-105:20	Attorney testifying. Assumes facts not in evidence, speculative,	
24		lacks foundation, ambiguous where stated.	<i>OR</i>
25			
26			
27			
28			

106:2-106:7	Assumes facts not in evidence.	OR
108:2-108:9	Hearsay.	S
108:10-108:15	Leading. Ambiguous.	OR
109:17-109:22	Leading.	OR
110:22-111:4	Leading. Ambiguous. Attorney testifying.	S
113:14-113:25	Document speaks for itself and is the best evidence. Hearsay.	S
115:17-116:4	Document speaks for itself and is the best evidence. Hearsay.	resume
116:5-116:12	Speculative. Lack of foundation.	OR
117:10-117:14	Hearsay.	OR

**Vlado Stojanovic**

53:19-55:10	Ambiguous answer. Object unless entire context given.	resume
86:13-87:4	Attorney's testifying, misstates testimony, assumes facts where stated.	86:13 - 86:14 S 86:20 - 87:4 OR
86:23-87:4	Assumes facts.	OR
87:5-87:15	Ambiguous. Relevance.	OR
98:10-98:22	Assumes facts.	S
100:3-100:5	Assumes facts.	OR
100:9-100:12	Assumes facts.	OR
105:16-106:1	Nonresponsive answer.	OR
106:8-106:10	Nonresponsive answer.	OR
129:16-129:24	Speculative.	S

Reserve -  
Does not  
correlate  
to  
Excerpt

By \_\_\_\_\_\s\  
JOHN C. BROWN  
Attorneys for Plaintiff, TK POWER, INC.

# **EXHIBIT D**

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16 Attorneys For Defendant and Counterclaimant  
 17 E-Z-GO, a division of TEXTRON INC.

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

TK POWER, INC.

Plaintiff,

v.

TEXTRON, INC.

Defendant.

TEXTRON INC., a Delaware Corporation,

Counterclaimant,

v.

TK POWER, INC., a Nevada Corporation,

Counterdefendant.

Case No. C-04-5098 EMC

Judge: Hon. Edward M. Chen

**DEFENDANT'S OBJECTIONS TO  
 PLAINTIFF'S EXHIBITS**

Date: April 26, 2006

Time: 3:00 p.m.

Courtroom: C, 15th Floor

Judge: Hon. Edward Chen

(Docket No. 157)

Defendant Textron, Inc. hereby objects to Plaintiff's designated exhibits.



1 P3164 Textron 10-K Annual Report filed 2/24/2006 for period ending 12/31/2005

2 Defendant objects to this exhibit and its use at trial because it is irrelevant and its  
3 probative value, if any, is substantially outweighed by the danger of unfair prejudice, confusion  
4 of the issues, and misleading of the jury. Further, defendant objects to this exhibit on the same  
5 basis as set forth in its Motion In Limine To Exclude Evidence Of The Parties' Comparative  
6 Financial Position, which is incorporated herein by reference. *Sustained as to Admissibility phase*

7 "Charge Data and Analysis" dated and included on a disk marked P3180:

8 1/3/2006

9 1/4/2006

10 1/27/2006

11 1/30/2006

12 2/14/2006

13 2/15/2006

14 3/31/2006

15 Defendant objects to the use and/or introduction of this "testing" and data and any  
16 testimony on these exhibits for the reasons set forth in its Motion in Limine entitled Defendant's  
17 Motion In Limine To (1) Exclude Expert Testimony Of Gary Fleer, And (2) Exclude All  
18 Testimony Regarding Battery Charger Tests Performed By Gary Fleer, which is incorporated  
19 herein by reference. *OR*

20 "Charge Data and Analysis" dated and included on a disk marked P3180:

21 4/13-17/2006

22 Defendant objects to this extremely late-produced "new" evidence as untimely and in  
23 complete contravention of both this Court's Discovery Order and the Federal Rules of Civil  
24 Procedure. Defendant first learned of these new "tests" on April 17, 2006 at 4:29 pm EDT, and  
25 was only provided the actual data from the "tests" on the afternoon of April 20, 2006 with  
26 plaintiff's exhibits. Defendant is extremely prejudiced by the late production of this purported  
27 data, as discovery is long over and expert designations and deposition is complete. Further,  
28 defendant is now unable to assess what was done to the charger to make it work, although based

1 on the testimony of one of plaintiff's "experts", John Keenan, defendant believes that the charger  
2 would need to be significantly altered and original parts of the charger destroyed in order to get it  
3 to work. Defendant also objects to the use and/or introduction of this "testing" and data and any  
4 testimony on these exhibits for the reasons set forth in its Motion in Limine entitled Defendant's  
5 Motion In Limine To (1) Exclude Expert Testimony Of Gary Fleer, And (2) Exclude All  
6 Testimony Regarding Battery Charger Tests Performed By Gary Fleer, which is incorporated  
7 herein by reference. *OR*

8  
9 DATED: April 21, 2006

TUCKER ELLIS & WEST LLP

10  
11 By: /S/  
12 Scott Kelly  
13 Attorneys for Defendant E-Z-GO, a  
14 division of TEXTRON INC.  
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# **EXHIBIT E**

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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 TK POWER, INC., a Nevada corporation,  
13 Plaintiff,  
14 vs.  
15 TEXTRON, INC., a Delaware corporation,  
16 Defendant.

17  
18 TEXTRON INC., a Delaware Corporation,  
19 Counterclaimant,  
20 vs.  
21 TK POWER, INC., a Nevada Corporation,  
22 Counterdefendant.

Case No.: C-04 05098-EMC

**PLAINTIFF TK POWER INC.'S  
AMENDED OBJECTIONS TO  
DEFENDANT TEXTRON INC.'S  
EXHIBITS**

Courtroom C, 15th Floor  
Judge: Hon. Edward Chen

(Docket No. 176)

23  
24  
25 Plaintiff TK Power, Inc. submits the following amended objections to Textron's exhibits.  
26 Plaintiff further reserves the right to object to these and any other exhibits pursuant to F.R.E. 602 if  
27 Textron fails to present the sponsoring witness or fails to establish a proper foundation for the  
28

1 exhibit. TK cannot make any such F.R.E. 602 objections at this time without knowing whether  
 2 Textron has made any such showing.

3 TK has withdrawn most of its F.R.E. 403 objections but reserves the right to make any  
 4 objections to the presentation by Textron of evidence as creating undue delay, waste of time, or  
 5 needless presentation of cumulative evidence.  
 6

Trial Exhibit #	Objection
D2061	F.R.E. 701-702 OR
D2067	F.R.E. 701-702 OR
D2071	F.R.E. 701-702 OR
D2072	F.R.E. 701-702 OR
D2082	F.R.E. 701-702 OR
D2083	F.R.E. 701-702 OR
D2088	F.R.E. 701-702 OR
D2090	F.R.E. 602, 701, 403 (undue prejudice) OR
D2093	F.R.E. 701-702 OR
D2094	F.R.E. 701-702 OR
D2097	F.R.E. 701-702 OR
D2107	F.R.E. 701-702 OR
D2126	F.R.E. 403 – Undue prejudice, undue delay, waste of time and needless presentation of cumulative evidence, 602, 803 <i>Reserve - depends on purpose</i>
D2139	F.R.E. 802, 701-702, 602 <i>Reserve - p. TK5001713 missing</i>
D2144	F.R.E. 802 <i>Reserve - depends on purpose</i>
D2147	F.R.E. 802, 701-702, 602 OR
D2153	F.R.E. 802, 701-702, 602 OR
D2154	F.R.E. 802, 701-702, 602 OR
D2199	F.R.E. 701-702 OR

D2203	F.R.E. 802	CR
D2204	F.R.E. 701-702	CR
D2222	F.R.E. 701-702	Reserve - to whom was this given? purpose?
D2224	F.R.E. 701-702	Same "
D2227	F.R.E. 701-702	Same "
D2242	F.R.E. 802	Reserve - who's notes are these
D2246	F.R.E. 802	Sustained
D2247	F.R.E. 802	Sustained
D2248	F.R.E. 802	Sustained
D2249	F.R.E. 802	Sustained
D2250	F.R.E. 802, violates First Amended Case Management and Pretrial Order for Jury Trial requiring designation of excerpts from depositions and requiring exchange of exhibit list by 4/17 Sustained	
D2251	F.R.E. 802, violates First Amended Case Management and Pretrial Order for Jury Trial requiring designation of excerpts from depositions and requiring exchange of exhibit list by 4/17 Reserve - depends on purpose	
D2252	F.R.E. 802	Sustained
D2253	F.R.E. 802, violates First Amended Case Management and Pretrial Order for Jury Trial requiring designation of excerpts from depositions Reserve - depends on purpose	
D2254	F.R.E. 802	Sustained
D2255	F.R.E. 802	Sustained
D2256	F.R.E. 802, violates First Amended Case Management and Pretrial Order for Jury Trial requiring designation of excerpts from depositions Reserve - depends on purpose	

Date: May 1, 2006

By /s/  
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